IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Tr.P(Crl.).No. 80 of 2007()

C.M.P.NO.393/2007 OF CJM COURT, THALASSERY.

PETITIONER:

SUDHANYA K.N., AGED 31 YEARS,
D/O K.N.DAMODARAN, "SUMADHURA",
ANNIKAMPOIL DESOM, P.O.KADIRUR,
THALASSERY, KANNUR.

BY ADV. SRI.MANJERI SUNDERRAJ

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. UMASANKAR VALSAN, 36 YEARS,
S/O M.D.VALSAN, FLAT NO.326, THUNGABADRA-B4,
NATIONAL GAMES VILLAGE, VIVEK NAGAR P.O.,
KORAMANGALA BANGALORE. EMPLOYED AS ENGINEER,
ROBERT BOSCH INDIA LTD., 123, INDUSTRIAL LAYOUT,
KORAMANGALA, BANGALORE 560095.

3. M.D.VALSAN, 63 YEARS,
FATHER'S NAME NOT KNOWN,
KUNNUKATTIL HOUSE, MOOTHAKUNNAM P.O.,
ERNAKULAM.

4. VANAJA VALSAN, 58 YEARS,
W/O M.D.VALSAN, KUNNUKATTIL HOUSE,
MOOTHAKUNNAM P.O., ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

T.P.(Crl.).No.80 of 2007

Dated this the 25th day of October 2007

O R D E R

This petition is for transfer of a petition under the 'Protection of Women from Domestic Violence Act 2005', hereinafter called 'DVA' pending before the learned Chief Judicial Magistrate, Thalassery to Family Court, Kannur or any other court. After discussions at the Bar, the learned counsel for the petitioner fairly submits that in the light of the decision in Mony v. Leelamma [2007(2)KLT 432], the prayer to transfer the case from the criminal court to the Family Court may not be maintainable. No sufficient reason has been shown to transfer the case from the court before which it is pending to any other criminal court also. Except that there has been no expeditious disposal, no grievance is raised which can justify the prayer for transfer.

2. The learned counsel for the petitioner finally submits that as some proceedings are pending before the Family Court and the Family Court has the requisite legal competence under Section 26 of the DVA to grant reliefs which are grantable under

the Act, the petitioner proposes not to press the application before the learned Chief Judicial Magistrate and in turn seek such relief from the Family Court under Section 26 of the DVA. The petitioner, needless to say, shall be at liberty to pursue such course, if he is advised to do the same.

3. I am satisfied that the prayer for transfer made in this petition cannot be considered favourably in the light of the decision in Mony v. Leelamma [2007(2)KLT 432].

4. This transfer petition is accordingly dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007